



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,235	09/09/2004	Fumiya Nemoto	OGOSH22USA	1791
270 7590 07/06/2010 HOWSON & HOWSON LLP 501 OFFICE CENTER DRIVE SUITE 210 FORT WASHINGTON, PA 19034			EXAMINER BAND, MICHAEL A	
			ART UNIT 1795	PAPER NUMBER
			NOTIFICATION DATE 07/06/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@howsonandhowson.com

Office Action Summary	Application No. 10/507,235	Applicant(s) NEMOTO ET AL.	
	Examiner MICHAEL BAND	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11 and 13-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 and 13-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamoto et al (JP No. 11011478) in view of Nakamura et al (JP No. 11350122) and Feiner (US Patent No. 5,582,114).

With respect to claims 1, 11-12, 17, and 30, Iwamoto et al discloses a double box container with figs. 3-4 depicting a rigid inner buffer member (i.e. retention frame) [58] defining a guide groove (i.e. void) [60] inside a rigid plastic inner box [50] having a lower plate [70] and upper plate [56] (abstract; p. 3, para 0017), where fig. 4 depicts said rigid buffer member [58] is continuous about and supports an outer peripheral edge of a rectangular substrate [62] placed in guide groove [60]. Figs. 3-4 depict the rigid plastic inner box [50] having the lower plate [70] and the upper plate [56] comprising a buffer member [64] that cushions and buffers the entire rectangular substrate [62] (para 0035-0036), with the rigid inner buffer member [58], said lower plate [70], and said upper plate [56] encapsulating and cushioning said substrate [62]. Fig. 1 depicts a rigid outer box [8] which surrounds the inner box [50] (abstract; p. 4, para 0032), where said outer box [8] is formed from wooden plywood panels (i.e. outer frame) [16], [18], a cover [20],

Art Unit: 1795

and palette (comprising a top and bottom portion) [6] (p. 3, para 0027). However Iwamoto et al is limited in that while it is disclosed that the double box container protects the rectangular substrate inherently having opposite faces and the outer peripheral edge, such as thin sheets, from dust and contaminates, it does not specify the parts being a sputter target.

Nakamura et al teaches a sputter target composed of two or more metal sheets or foil to form a rectangular or circular sputter target (abstract; fig. 1). It is known to avoid having dust and other contaminates present on the metal foil to ensure purity in the sputter target and sputter deposited film.

It would have been obvious to one of ordinary skill to interchange the thin sheets of Iwamoto et al with the metal sheet or foil of Nakamura et al since both thin sheets require protection during transport to avoid contracting impurities.

However Iwamoto et al is further limited in that while a fork lift truck is suggested to transport the palette [6] via rigid stationary supports forming hollows [4] (p. 3, para 0024), it is not suggested for the wheel for said for lift truck (i.e. man-powered transport) to be mounted directly to and integral with the bottom plate.

Feiner teaches a pallet capable, when supporting a load, of being alternately lifted and transported by a forklift having prongs or manually (i.e. man-powered) rolled across a floor (abstract), where figs. 2A-B depict said pallet (i.e. outer box) [10] having recesses (i.e. hollows) [20] formed by rigid stationary supports, a upper planar member [14], a lower planar member (i.e. bottom plate) [16] with wheels [40] enabling inclined, man-powered transport via handle assembly [50]. Figs. 2A-B also depict the wheels [40]

Art Unit: 1795

directly and integral with the bottom plate [16] and adjacent only a rear edge of said bottom plate [16] and not adjacent an opposite front edge of said bottom plate [16], with the handle assembly [50] opposite said wheels [40] and above said bottom plate [16]. Despite Feiner not specifying the heights of the supports and wheels, it has been held where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. Therefore it would have been obvious to one of ordinary skill in the art to have the height of the supports be smaller than, greater than, or equal to the height of the wheels since the relative heights all allow for the container to be inclined during transport. In addition though, figs. 2A-B does appear to depict the heights of the rigid supports forming the recesses [20] being greater than the height of the wheels [40], with said wheels [40] extending from the bottom plate [16] such that the pallet [10] is supported on said wheels [40] only when said pallet [10] is inclined on a floor face [12]. Feiner cites the advantage of using the man-powered transport via the handle assembly as enabling the load to be moved over relatively small distances that would be inconvenient or impossible to use a forklift (col. 1, lines 25-51).

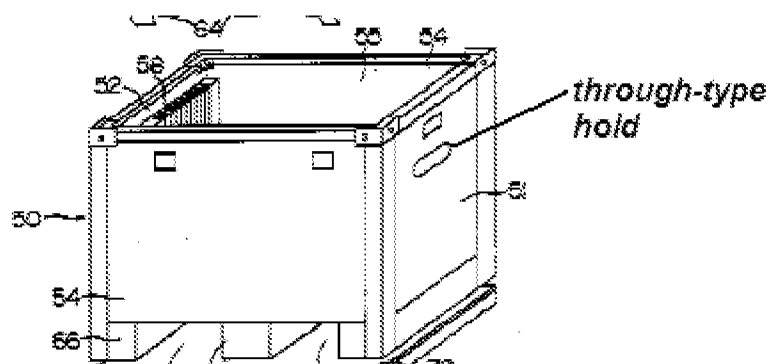
It would have been obvious to one of ordinary skill in the art to use the man-powered transport taught by Feiner in place of the forklift of Iwamoto et al to gain the advantages of enabling the load to be moved over relatively small distances that would be inconvenient or impossible to use a forklift.

In addition since both Iwamoto et al and Feiner teach methods for transporting a pallette (or pallet), it would have been obvious to one of ordinary skill in the art to substitute the forklift for man-power to achieve the transport of said pallet.

In addition since the prior art of Feiner recognizes the equivalency of a forklift and manual (i.e. man) power in the field of transporting a pallette (or pallet), it would have been obvious to one of ordinary skill in the art to replace the forklift of Iwamoto et al with the man-power of Feiner as it is merely the selection of functionally equivalent transporting mechanisms recognized in the art and one of ordinary skill would have a reasonable expectation of success in doing so.

With respect to claims 13, 18, and 22, modified Iwamoto et al further discloses in fig. 2 a metal fitting [44] on the wooden panels [16], [18] of the outer box [8].

With respect to claims 14, 19, 23, and 26, modified Iwamoto et al further discloses in fig. 3 a through-type hold on inner box [50] and adjacent an upper rim of said inner box [50]. The cropped figure below of fig. 3 serves to further clarify the through-type hold.



With respect to claims 15, 20, 24, and 27-28, modified Iwamoto et al further discloses in fig. 3 an impact-absorbing object [72] between the inner box [50] and outer box [8].

With respect to claims 16, 21, 25, and 29, modified Iwamoto et al further discloses in fig. 1 the cover [20] being removably affixed to the outer box [8].

Response to Arguments

103 Rejections

3. Applicant's arguments filed 4/19/2010 have been fully considered but they are not persuasive.

4. On p. 4-6, the Applicant argues that of Iwamoto et al (JP '478) inherently teaches away and destroys the combination of Feiner from teaching using inclined transport since there is no material buffering the overall front and rear surfaces of the large substrates.

The Examiner respectfully disagrees. Iwamoto et al discloses in figs. 3-4 the large substrates [62] slid into grooves [60] of the buffer member [58] which prevents said large substrates from shifting horizontally into other adjacent large substrates, with buffer member [64] preventing said large substrate [62] from shifting vertically (para 0035-0036), thus Iwamoto et al teaches preventing damaging said large substrates [62] during transport. In addition, Iwamoto et al teaches in fig. 3 a pallet [6] with hollows [4] for transporting said large substrates [62] for use with a fork lift truck or some other lift means (para 0024), with Feiner teaching transporting a pallet with holes (abstract; figs.

Art Unit: 1795

2A-B). Therefore Iwamoto et al does not inherently teach away from nor destroy the combination Feiner for using tilted transport. In addition, the Applicant has not pointed out how their claimed invention claims to overcome these supposed damaging forces and thus has not pointed out the differences between the prior art combination and the claimed invention.

5. On p. 6-7, the Applicant argues that the claims require the sputtering target to be “entirely encapsulated and cushioned by said retention frame and lower and upper plates”, with there being no gap between the retention frame and the peripheral edge of the sputtering target, and there being no gap between the faces of the sputtering target and upper and lower plates.

6. The Examiner respectfully disagrees. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., no gaps being present) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See MPEP 2145, Section VI. The claims require the retention frame, upper plate, and lower plate to entirely encapsulate (i.e. surround) the sputter target, with Iwamoto et al appearing to depict entirely surrounding the large substrates (i.e. sputter targets) in figs. 1-4.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Band whose telephone number is (571) 272-9815. The examiner can normally be reached on Mon-Fri, 9am-5pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexa Neckel can be reached on (571) 272-1446. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Application/Control Number: 10/507,235

Page 9

Art Unit: 1795

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. B./

Examiner, Art Unit 1795

/Alexa D. Neckel/

Supervisory Patent Examiner, Art Unit 1795